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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,901	10/30/2003	Steven G. Glazik	0401-0002	9246

7590 09/21/2004

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EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/696,901

Applicant(s)

GLAZIK ET AL.

Examiner

Nathan S Mammen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16, 17 and 23-31 is/are rejected.
- 7) ☒ Claim(s) 14, 15 and 18-22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/30/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 and 24-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 1 and 24 repeatedly use the limitation “finger” to refer to different fingers – the replacement finger and the finger to be replaced. As such, the claims are confusing and indefinite as to which finger is being referenced. For clarity, it is suggested that Applicant employ the language used in claim 11 by referring to a “first elongate finger” and a “second elongate hollow finger”.
4. Claims 1-10 and 24-31 are also indefinite because it is unclear whether Applicant intends to claim the combination – the harvester reel, the hollow finger, and the broken finger – or just the subcombination of the hollow finger. Since claims 1-10 and 24-31 seem focused on the structure of the hollow replacement finger, the claims are treated in the following art rejection as being directed to the subcombination.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,2, 4-7, 24, 25, 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,471,989 to Weis.

The Weis '989 patent discloses a finger for receiving a first finger comprising an elongate hollow finger (13) having a cavity that receives the first finger (11). A fastener (16) adjacent the fastening end of the hollow finger fastens the hollow finger over the finger finger.

Regarding claims 2, 4-7: The bottom of the hollow finger is curved. The shape (even though not the size) of the finger is a substantial replicate of the first finger. The hollow finger receives the first finger – whether broken or not. The fastener (16) fastens the hollow finger to the first finger by friction.

Regarding claims 24, 25, 28-31: The method would be inherent as the normal and logical manner in which the finger of the Weis '989 patent would be used.

7. Claims 1-3, 6, 11-13, 16, 23, 24, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,199,357 to Bloom.

The Bloom '357 patent discloses a finger (2) for receiving a finger (1) of a harvester reel. The finger comprises an elongate hollow finger having a cavity (16, 17) arranged to receive a portion of the finger (1) of the harvesting reel. A fastener (9) fastens the finger (2) to the finger (1) of the harvesting reel.

Regarding claims 2-3, 6, 11-13, 16, 23, 24, 26: The finger (2) is curved (Fig. 4) and smaller in cross-section at the end distal to the attachment location. The fastener fastens the finger to the harvester reel pickup tine. The finger of the harvester reel includes a clamping portion (4). The pickup tine includes a wing (34, 35).

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Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8, 9, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 1,471,989 to Weis in view of U.S. Patent No. 4,706,448 to Gessel et al.

The Weis '989 patent discloses the claimed invention, as stated in the paragraph above, except for the elongate hollow finger being mounted to the first finger through a split ring arrangement. The Gessel '448 patent teaches that it is known in the art to mount fingers (22) to a working implement using split rings. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Weis '989 patent with the split ring mounting arrangement as taught by the Gessel '448 patent, in order to provide an alternative means of quickly mounting a finger.

Allowable Subject Matter

10. Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Claims 14, 15, 18-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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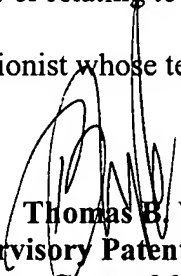
Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
9/17/04

Nathan S. Mammen